



Features

Appellate Investigation Project Success.... 4
DOJ Guidelines for Photo Arrays 7
MAACS Reports on Pilot Project..... 1
Wrongful Conviction Compensation Bills . 5

Departments

CAPPS 8
From Other States..... 11
Reports and Studies 10
Spotlight On: Luther W. Glenn Jr. 3
Surveillance News..... 9
Training Calendar..... 32
Training Events..... 13
Trial Court Successes..... 3

Appellate Courts

Michigan Court of Appeals
Published Opinion Summaries..... 19
Unpublished Opinion Summaries..... 24
Michigan Supreme Court
Order Summaries 17
United States Court of Appeals
Opinion Summary 16
United States Supreme Court
Opinion Summaries 15

***MAACS Issues Its First Year Report
on Regional Pilot Project,
Calls for Expansion***

The Michigan Assigned Appellate Counsel System (MAACS) has released its First-Year Report and Call for Expansion of its Regional Pilot Project (October 2016). The Project is a key part of the “commonsense reforms” that have been under development since the Michigan Supreme Court consolidated MAACS with the State Appellate Defender Office (SADO) in September 2014. The reforms are aimed at ensuring high-quality appellate representation for Michigan’s indigent criminal defendants while recognizing the economic burden on the individual trial courts and their funding units, which bear the costs of non-SADO representation.

The Regional Pilot Project is designed to further these aims by consolidating the individual trial court assignment lists into regional lists, transferring administrative duties from participating trial courts to MAACS, and establishing uniform compensation for appointed appellate counsel. The Report provides information on the origin of the Project, the changes it makes to the attorney assignment process and the fee and vouchering process, and the effects of these changes on the quality of representation.

The Project began on October 1, 2015, following an Administrative Order from the Supreme Court, and under the leadership of Bradley R. Hall, MAACS Administrator. The Project encompassed fourteen trial courts in two geographical regions: the Upper Peninsula and the Eastern Lower Peninsula. The Report observes that, in its first year, the Project has been widely popular with trial courts, appellate courts, and roster attorneys. In response to a survey, 100 per cent of participating trial courts

reported that the Project has “overall . . . improved the appellate assignment process.” Noting that the Project may be subject to additional improvement before permanent implementation, the Report informs that the Supreme Court has issued an Order extending the Project for another year, until December 31, 2017.

Under the Project, MAACS assumes much of the administrative work in the appellate counsel assignment process (formerly done by each trial court). After the trial court electronically transmits a request for appellate counsel, MAACS pre-screens a qualified attorney from the regional list, confirms the attorney’s willingness to accept the case, prepares an assignment order (including all lower court transcripts), provides the order to the trial court for the judge’s signature, and serves the order on all appropriate parties.

The changes in the assignment process have resulted in substantially reduced delays in appointments, costs, redundant efforts, and the volume of substitute appointments, while benefitting indigent defendants by the prompt appointment of appellate counsel. Trial court staff members have offered important suggestions for improvement, but the overall response has been “enthusiastically supportive.” One staff member reported, “I was not excited about becoming a part of this pilot process but I have to say that I really do find it much more expedient.”

The success of the Project depends in great part on the participating trial courts’ acceptance of a uniform attorney fee policy. After consultation with trial courts and attorneys, MAACS created a uniform fee policy that was adopted by the Appellate Defender Commission (and is detailed in the Report). For most participating trial courts, this has involved increased costs. But 100 percent of the participating courts reported that they are “satisfied with the overall fairness and reasonableness” of the fee policy.

In light of the new fee policy, and effective in 2017, all MAACS roster attorneys will be reclassified into one of two classes: Level I attorneys (who will be appointed only to plea-based appeals with a maximum statutory sentence of less than life) and Level II attorneys (who will be appointed to life plea-based appeals and all trial-based appeals). The fee policy, for appointments from participating courts, establishes a fee rate of \$50/hour for Level I appeals

and \$75/hour for Level II (and current Level III) appeals. The policy also includes changes to travel compensation, detailed in the Report. Additionally, MAACS has assumed greater responsibility for accuracy and compliance in the vouchering process (also detailed in the Report). The change in the vouchering process will also create meaningful data for analysis of time, expenses, and outcomes in appellate assignments.

The Report acknowledges that there is, as yet, insufficient data to assess whether the Project has increased the quality of representation for Michigan’s indigent criminal defendants. But it is “absolutely clear” that a uniform fee policy has boosted the morale of participating attorneys, aided retention efforts, and benefitted the recruitment of talented appellate attorneys to the roster. The same is true of the new appointment process, which gives attorneys greater control of their caseload and ready access to the complete trial court record. The Report states, “The feedback has been overwhelmingly positive from veteran, new, and even aspiring roster attorneys.” The Report concludes that “the changes implemented by this pilot project represent an essential component to lasting and meaningful reform for the benefit of indigent criminal defendants.”

In close, the Report gives a “Call for Expansion.” As noted, the Supreme Court has approved an extension of the Regional Pilot Project. In the next year, MAACS “seeks to build upon the success of the first year by expanding the pilot in more trial courts and geographic regions throughout the state.” The second year of the Regional Pilot Project promises to see greater involvement and success.

For more information on the Project, read the full Report here: http://www.sado.org/content/pub/10775_MAACSPilotReport.pdf

*by John Zevalking
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